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HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

DIVISION BENCH

CORAM : HON'BLE SHRI S.R. NAYAK, CJ
& HON'BLE SHRI D.R. DESHMUKH, J.

M.A. No. 487 of 2004

APPELLANTS NON-APPLICANT-1&2

1. Dinesh Soni s/o Bhuneshwar Prasad Soni, aged about years, occupation – Vehicle owner, r/o village Post Lundra, Chowki Lundra, P.S. Dhaurpur, Tehsil Lundra, Distt. Surguja, C.G. (OWNER)

2. Dhaneshwarram Nageshiya s/o Dilbandhu Ram, age 25 years, Occupation – Driver, r/o village Rasauli, Chowki Lundra, P.S. Dhaurpur, Tehsil Lundra, Distt. Surguja C.G.

VERSUS

RESPONDENTS

1. Smt. Geeta Singh w/o Sanjay Singh, age 21 years, Occuption Household

2. Ku. Mona d/o Late Sanjay Singh, age 2 years 6 months

3. Ku. Sona d/o Late Sanjay Singh, age 1 years.
No. 2 and 3 minor, through natural guardian & mother Smt. Geeta Singh w/o Late Sanjay Singh

4. Smt. Subeshwari w/o Shri B.R. Singh, age 50 years, Occupation – Household

5. Shri B.R. Singh s/o Late Tilochan Ram, age 52 years, Occupation Service
All by Caste-Gond, r/o village Bardih, Chowki Lundra, P.S. Dhaurpur, Tehsil Lundra, District Surguja, C.G. (CLAIMANTS/APPLICANTS)

6. Branch Manager, United India Insurance Company Limited, Branch Ambikapur (Near Ram Mandir) District Surguja, C.G. (INSURER/NON APPLICANT NO.3)

Present: Shri A.K. Prasad, learned counsel for the appellants.

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ORAL ORDER
(Passed on 25th July, 2006)

The following oral order of the Court was passed by

D.R. DESHMUKH, J.

In this appeal, the only point urged by the learned counsel for the appellants is that the Motor Accident Claims Tribunal has erred in exonerating the insurer from its liability to pay compensation since the evidence led by the non-applicants/appellants before the MACT clearly established that there was no breach of policy of insurance since the deceased was not being carried for hire in the Jeep. However, the above contention of the learned counsel for the appellants cannot be accepted since upon a careful perusal of the record we find that the Tribunal after proper appreciation of the evidence led by the parties came to the conclusion that deceased was actually travelling in the ill fated jeep for hire. The affidavit and evidence of the appellants Dhaneshwarram itself shows that the deceased Sanjay and the eight other unknown persons being carried in the Jeep did not belong to the family of appellant/owner Dinesh Soni and had actually paid the expenses to him for filling the fuel in the jeep. This fact is also borne out from the evidence led by the respondents herein before the MACT. In this view of the matter the contention of the learned counsel for the appellants fails. We thus do not find any merit in this appeal. Accordingly, it is dismissed.

Sd/-
Chief Justice

Sd/-
Dilip Raosaheb Deshmukh
Judge